

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.7199 OF 1997

PRAJAPATI ATULKUMAR MANGALDAS & ORS.

VERSUS

THE STATE OF GUJARAT & ORS.

Appearance:

MR MG NAGARKAR for Petitioners

MS HARSHA DEVANI for Respondent No.1

MR RR TRIPATHI for Respondent No.4

None present for other Respondents

CORAM: MR.JUSTICE S.K.KESHOTE

Date of Order: 05/02/1998

C.A.V. ORDER

Heard learned counsel for the parties.

2. The petitioners, in this Special Civil Application, prayed for issuance of a writ of Mandamus or any other writ, order or direction, directing the respondents, their agents, servants and associates to regularize the services of the petitioners from their respective date of joining and give all the benefits like the regular employees including the pay scale and all other benefits. Further prayer has been made that pending admission, hearing and till final disposal of this petition, the respondents be restrained from terminating their services.

3. A preliminary objection has been raised by learned counsel for respondent No.4 that the petitioners have already raised an industrial dispute through their Union, being IDC No.253 of 1997 before the Assistant Labour Commissioner, Himmatnagar and as such, this writ petition is not maintainable. The learned counsel for the petitioners does not dispute this position but what he contended is that the respondent No.3 is going to give contract for collecting the octroi and as such, the petitioners' services are likely to be terminated.

4. Once a dispute has been raised by petitioners through their Union for regularizing their services

before the appropriate forum, provided under Industrial Disputes Act, 1947, then for the same relief, this writ petition is not maintainable. So far as the case of termination of petitioners' services is concerned, it is suffice to say that it is only an apprehension and their services have not been terminated so far. This petition, only on apprehension of termination of services is otherwise not maintainable. In fact, no cause of action has accrued to the petitioners for filing this Special Civil Application. Otherwise also, in case the services of the petitioners are terminated, then they have adequate efficacious alternative remedy available to raise an industrial dispute before appropriate forum and as such, this petition is not maintainable. Unless the services of the petitioners are terminated, there is no question of entertaining this writ petition. Only after termination of their services, the petitioners have cause of action to challenge that order before appropriate forum, but before termination, this petition is not maintainable. It is tried to be projected before this Court that in case the petitioners come before this Court after termination of their services, then this Court may not protect them by grant of interim relief. This apprehension made by learned counsel for the petitioners is wholly misconceived. If this Court cannot protect them after termination of services, how far it is correct to say on the part of the learned counsel for the petitioners that they should be protected even before any adverse orders are passed against them. Prayer for restraining the respondents from terminating the services of the petitioners cannot be granted as the respondents have all the right to terminate the services of the petitioners in accordance with law, and only after termination of their services, it can be said whether the same has been made in accordance with law or not. So before termination of services, in fact, the prayer made by the petitioners for restraining the respondents from terminating their services is not tenable.

5. Taking into consideration the totality of the facts of the case, this Special Civil Application has no merits and the same is dismissed. Notice discharged. Interim relief, if any, granted by this Court, stands vacated.

(S.K.Keshote, J)

(sunil)

